

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EVAN DAVID SMITH,
Plaintiff

v.

**COURT OF COMMON PLEAS
OF YORK COUNTY, et al.,**
Defendants

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No. 1:23-cv-01812

(Judge Kane)

(Magistrate Judge Bloom)

ORDER

Before the Court in the above-captioned action is the December 11, 2023 Report and Recommendation of Magistrate Judge Bloom (Doc. No. 10), recommending that the Court dismiss with prejudice pro se Plaintiff Evan David Smith (“Plaintiff”)’s complaint in the above-captioned case upon a statutorily-mandated screening review pursuant to 28 U.S.C. § 1915(e)(2) because: (1) the defendants sued by Plaintiff are entitled to immunity from his claims; and (2) the complaint fails to state a claim upon which relief may be granted. (Doc. No. 10 at 5.)¹ No timely objections to the Report and Recommendation have been filed.²

AND SO, on this 5th day of January 2024, upon independent review of the record and the applicable law, **IT IS ORDERED THAT**:

1. The Court **ADOPTS** the Report and Recommendation (Doc. No. 10) of

¹ Magistrate Judge Bloom’s Report and Recommendation acknowledges that, before dismissing a complaint under the screening provisions of 28 U.S.C. § 1915, the Court must grant the plaintiff leave to amend his complaint unless amendment would be inequitable or futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 114 (3d Cir. 2002). Here, the Court agrees with Magistrate Judge Bloom that leave to amend would be futile given the material flaws in Plaintiff’s complaint against the defendants. (Doc. No. 10 at 5–9.)

² Plaintiff filed a “motion for default judgment” on December 12, 2023. (Doc. No. 11.) Given that Plaintiff’s complaint is subject to dismissal with prejudice pursuant to the screening provisions of 28 U.S.C. § 1915(e)(2), Plaintiff’s motion for default judgment, as well as a motion filed on November 14, 2023 (Doc. No. 8), which appears to be a duplicate of his complaint, will be denied as moot.

Magistrate Judge Bloom;

2. Plaintiff's complaint (Doc. No. 1) is **DISMISSED WITH PREJUDICE**;
3. Plaintiff's "motion to petition the court" (Doc. No. 8) and "motion for default judgment" (Doc. No. 11) are **DENIED AS MOOT**; and
4. The Clerk of Court is directed to **CLOSE** this case.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania